

RULE 63 (37 CFR 1.63)
DECLARATION
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe that, together with Mark Hampden-Smith, Toivo T. Kudas, James Caruso, Quint H. Powell and Clive D. Chandler, I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "NICKEL POWDERS, METHODS FOR PRODUCING POWDERS AND DEVICES FABRICATED FROM SAME", the specification of which has been prepared and filed on February 24, 1998, receiving Serial No. 09/028,678, and further identified as Attorney File No. NAN-004-2.

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Prior Foreign Application(s)		Day/Month/Year Filed	Priority Claimed	
Number	Country		Yes	No

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Application Serial No.	Filing Date	Status: <u>patented, pending, abandoned</u>
60/038,258	2/24/97	Provisional
60/039,450	2/24/97	Provisional

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1) Inventor's Signature  Date 20 MAY 1998

Inventor's Name (typed): Clive D. Chandler

Citizenship: Australia

Residence: 10706 SW Capital Highway No. 44
Portland, OR 97219

Post Office Address*: Same as Residence

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37 CFR §1.56(a) and (b)
DUTY TO DISCLOSE INFORMATION MATERIAL
TO PATENTABILITY

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1) Inventor's Signature Daniel J. Skamser Date 3/24/98

Inventor's Name (typed): Daniel J. Skamser

Citizenship: U.S.A.

Residence: 10327 Hackamore Place SW
Albuquerque, NM 87121

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1) Inventor's Signature Toivo T. Koda Date 3/30/98

Inventor's Name (typed): Toivo T. Koda

Citizenship: U.S.A.

Residence: 11102 San Rafael Dr NE
Albuquerque, NM 87122

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1) Inventor's Signature Mark J. Hampden-Smith Date 3-27-98

Inventor's Name (typed): Mark J. Hampden-Smith

Citizenship: Britain

Residence: 2901 Maximillian NW
Albuquerque, NM 87131

Post Office Address*: Same as Residence

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1) Inventor's Signature James Caruso Date 3/25/98

Inventor's Name (typed): James Caruso

Citizenship: U.S.A.

Residence: 7721 Cedar Canyon Court NE
Albuquerque, NM 87122

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1) Inventor's Signature  Date 3-24-98

Inventor's Name (typed): Quint H. Powell

Citizenship: U.S.A.

Residence: 14336 Grand Avenue NE
Albuquerque, NM 87123

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009120 11090
"0221660"

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DUTY TO DISCLOSE INFORMATION MATERIAL
TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application,

and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of a patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.*

*Note, 37 CFR §1.97(h) states: "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b)."